

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOSE HERNANDEZ, et al.,
Plaintiffs,
v.
SURINDER SROA, et al.,
Defendants

No. 08-2804 MMC

**ORDER AFFORDING PLAINTIFFS
OPPORTUNITY TO SUPPLEMENT
MOTION FOR LEAVE TO FILE FIRST
AMENDED COMPLAINT**

On January 15, 2009, plaintiffs filed a "Motion for Leave to File a First Amended Complaint." In the proposed First Amended Complaint ("proposed FAC"), attached as an exhibit to the motion, plaintiffs seek to (1) delete defendants that plaintiffs have previously dismissed, (2) delete defendant BNC Mortgage, Inc., (3) add Sterling Savings Bank as a defendant, (4) revise claims made against defendants Argentum Real Estate and Kirt Menon, and (5) revise claims made against defendants Surinder Sroa, Linda Sroa, Augustin Reyes, and Clista Reyes.

By Judgment filed January 23, 2009, the Court entered judgment in favor of plaintiffs and against defendants Surinder Sroa, Linda Sroa, Augustin Reyes, and Clista Reyes. In light of the final resolution of plaintiffs' claims against those four defendants, the proposed FAC would not be appropriately filed because, as noted, it includes revised claims against those four defendants. Further, with respect to plaintiffs' request to add Sterling Savings

1 Bank as a defendants, plaintiffs have failed to explain how the present trial schedule could
2 be met if said proposed new defendant is added as a party or, alternatively, if plaintiffs are
3 of the view that a modification of the existing schedule would be necessary, plaintiffs have
4 failed to identify any good cause to modify the existing schedule. See Johnson v.
5 Mammoth Recreations, Inc., 975 F.2d 604, 610 (9th Cir. 1992) (holding party seeking to
6 modify scheduling order must demonstrate "good cause" for proposed modification; "[a]
7 scheduling order is not a frivolous piece of paper, idly entered, which can be cavalierly
8 disregarded by counsel without peril").

9 Accordingly, the Court hereby affords plaintiffs leave to file, no later than February 9,
10 2009, a supplement to their Motion for Leave to File a First Amended Complaint, as follows:

11 1. Plaintiffs shall submit a revised proposed FAC in which plaintiffs no longer allege,
12 as against Surinder Sroa, Linda Sroa, Augustin Reyes, and Clista Reyes, claims in any
13 manner different from those alleged in the initial complaint, and

14 2. To the extent plaintiffs' revised proposed FAC includes claims against Sterling
15 Savings Bank, plaintiffs shall address the effect of the addition of Sterling Savings Bank on
16 the current trial schedule.

17 If plaintiffs fail to file a timely supplement, the Court will deny plaintiffs' Motion for
18 Leave to File a First Amended Complaint, with the exception of granting plaintiffs' request
19 to dismiss BNC Mortgage, Inc. as a party hereto.

20 **IT IS SO ORDERED.**

21
22 Dated: January 23, 2009

23 
MAXINE M. CHESNEY
United States District Judge